



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224
SEP 07 2016

201649020

Uniform Issue List: 402.00-00

SE: T: EP: RA: T

Legend

Taxpayer A =

Plan B =

Non-IRA Account C =

Financial Institution D =

Amount 1 =

Dear :

This is in response to your request dated January 14, 2016, as supplemented by correspondence dated August 23, 2016, in which you, through your authorized representative, request a waiver of the 60-day rollover requirement contained in section 402(c)(3)(A) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that a distribution was made from Plan B equal to Amount 1. However, Taxpayer A asserts that the failure to accomplish a rollover of Amount 1 within the 60-day period described in section 402(c)(3) of the Code was because she moved to a new residence and did not receive the first distribution

check issued by Plan B.

Taxpayer A and her spouse were divorced on December 4, 2014. At this time, Taxpayer A moved to a new residence. On December 26, 2014, Plan B sent a letter to Taxpayer A's former address stating that, pursuant to a court order, on February 25, 2015, it planned to distribute Amount 1 to Taxpayer A. The letter also presented rollover options for the pending distribution. Taxpayer A, however, never received the letter or the check. In 2015, Taxpayer A contacted Plan B to make arrangements to have her share of her ex-husband's Plan B account rolled over to an IRA. At this time, she learned that Plan B had previously mailed her the check, and that the check could be reissued if she filed a formal request. Plan B also explained that the reissued check would have the same date as the prior check and that Plan B would not roll over Amount 1 into her IRA. On December 22, 2015, Taxpayer A received Amount 1 from Plan B. Taxpayer A deposited Amount 1 into a non-IRA account, Non-IRA Account C, which was maintained by Financial Institution D. Taxpayer A represents that Amount 1 has not been used for any other purpose.

Based on the above facts and representations, Taxpayer A requests a waiver of the 60-day rollover requirement under section 402(c)(3) of the Code with respect to the distribution of Amount 1 from Plan B.

With respect to your ruling request, section 401(a) of the Code provides the qualification rules applicable to retirement plans set up by employers exclusively to benefit their employees and their beneficiaries.

Section 402(a)(1) of the Code provides that except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, in the manner provided under section 72 (relating to annuities).

Section 402(c) of the Code provides rules governing rollovers of amounts from exempt trusts to eligible retirement plans, including IRAs.

Section 402(c)(1) of the Code provides, generally, that if any portion of an eligible rollover distribution from a qualified employees trust is paid to the employee in an eligible rollover distribution and the employee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

Section 402(c)(2) of the Code provides that the maximum amount of an eligible rollover distribution to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to

paragraph (1)). The preceding sentence does not apply to the distribution to the extent that such portion is transferred to an eligible retirement plan described in section 402(c)(8)(B)(i) and (ii).

Section 402(c)(3)(A) of the Code provides, generally, that section 402(c)(1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

Section 402(c)(3)(B) of the Code provides that the Secretary may waive the 60-day requirement under subparagraph (A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occur after December 31, 2001, are eligible for the waiver under section 402(c)(3)(B).

Section 402(c)(4) of the Code defines "eligible rollover distribution" as any distribution to an employee of all or a portion of the balance to the credit of an employee in a qualified trust, except that such term shall not include:

- (A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made --
 - (i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or
 - (ii) for a specified period of 10 years or more,
- (B) any distribution to the extent the distribution is required under section 401(a)(9), and
- (C) any distribution which is made upon hardship of the employee.

Section 402(c)(8)(B) of the Code defines eligible retirement plan as (i) an individual retirement account described in section 408(a); (ii) an individual retirement annuity described in section 408(b) (other than endowment contract); (iii) a qualified trust; (iv) an annuity plan described in section 403(a); (v) an eligible deferred compensation plan described in section 457(b) maintained by an eligible employer as described in section 457(e)(1)(A); and (vi) an annuity contract described in section 403(b).

Section 402(e)(1)(A) of the Code provides that, for purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of a participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

Section 402(e)(1)(B) of the Code provides that if any amount is paid or distributed to an alternate payee who is the spouse or former spouse of a participant by reason of any qualified domestic relations order (within the meaning of section

414(p)), subsection (c) shall apply to such distribution in the same manner as if the alternate payee were the participant.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3)(B) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information and documentation submitted by Taxpayer A support her assertion that the failure to timely roll over the distribution of Amount 1 from Plan B into an IRA was because she moved to a new residence and did not receive the first distribution check issued by Plan B. Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount 1 into an IRA. Provided all other requirements of section 402(c)(3), except the 60-day requirement, are met with respect to such contribution, Amount 1 will be considered a rollover contribution within the meaning of section 402(c)(3).

This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

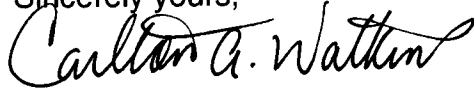
No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representative.

If you wish to inquire about this ruling, please contact
at . Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,

A handwritten signature in cursive script that reads "Carlton A. Watkins".

Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:
Notice of Intention to Disclose
Deleted copy of this letter

Cc: